

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

BRUCE PAYNE,

Plaintiff,

v.

**SOCIAL SECURITY
ADMINISTRATION,
COMMISSIONER,**

Defendant.

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Case No.: 4:18-cv-01929-ACA

MEMORANDUM OPINION

Plaintiff Bruce Payne appeals the Social Security Commissioner's denial of his claim for a period of disability and disability insurance benefits. The magistrate judge entered a report and recommendation that the court affirm the Commissioner's decision. (Doc. 14). Mr. Payne, through counsel, filed objections to the report and recommendation. (Doc. 15). Pursuant to 28 U.S.C. § 636(b)(1)(C), this case is before the court for a review of Mr. Payne's objections to the report and recommendation.

Mr. Payne makes three objections to the magistrate judge's report and recommendation. First, Mr. Payne claims that the magistrate judge erred in finding that treatment records that Mr. Payne submitted to the Appeals Council were not

material and did not raise a reasonable probability of negating the ALJ's findings. Second, Mr. Payne argues that the magistrate judge erred in recommending that the court affirm the Commissioner's decision on a post-hoc rationalization. Third, Mr. Payne contends that the ALJ failed to adequately consider his testimony concerning side effects of his pain medication. The court examines each objection below.

I. Evidence Submitted to Appeals Council

Mr. Payne first objects to the magistrate judge's finding that evidence that Mr. Payne submitted to the Appeals Council was not material and did not show a reasonable probability of changing the ALJ's decision. (Doc. 15 at 2-11). Mr. Payne's objection consists of a summary of the evidence he provided to the Appeals Council, followed by block quotes from Eleventh Circuit and district court decisions. (*Id.* at 2-8). The objection concludes with a block quote from the relevant portion of the magistrate judge's report and recommendation. (*Id.* at 8-11). Mr. Payne presents no argument or discussion of the facts relevant to his case. (Doc. 15 at 2-11). Accordingly, the court does not consider this to be an objection to the merits of the magistrate judge's recommendation. The court therefore **OVERRULES** Mr. Payne's objection to the magistrate judge's finding that the evidence he submitted to the Appeals Council is not material and that there is no reasonable probability that the evidence would change the ALJ's decision.

II. Post-Hoc Rationalization

Mr. Payne's second objection is that the magistrate judge erred in recommending that the court affirm the Commissioner's decision on a post-hoc rationalization. Mr. Payne's objection consists solely of citations to or block quotes from Supreme Court, Eleventh Circuit, and district court decisions. (Doc. 15 at 11-14). Mr. Payne advances no substantive argument or analysis regarding the facts of his case or any specific finding by the magistrate judge. (*Id.*). Accordingly, the court does not consider this to be an objection to the merits of the magistrate judge's recommendation. Therefore, the court **OVERRULES** Mr. Payne's objection that the magistrate judge's recommendation is based on an impermissible post-hoc rationalization.

III. Testimony About Medication Side Effects

Mr. Payne's third objection is that the ALJ did not discuss the side effects of Mr. Payne's medication. (Doc. 15 at 15). This objection consists of a block quote from the hearing transcript and a citation to an unpublished district court decision. (*Id.*). This objection is not an objection to any "findings of fact or recommendations." (Doc. 14 at 27). Rather, the objection improperly "repeat[s] legal arguments" that Mr. Payne made in his briefs in support of his appeal. (*Id.*; *see also* Doc. 9 at 30-32; Doc. 13 at 6). Therefore, the court **OVERRULES** Mr. Payne's objection that the ALJ did not consider the side effects of his medication.

IV. Conclusion

For the reasons outlined above, the court **OVERRULES** Mr. Payne's objections, **ADOPTS** the report, **ACCEPTS** the recommendation, and **AFFIRMS** the Commissioner's decision.

The court will enter a separate final order consistent with this memorandum opinion.

DONE and **ORDERED** this April 1, 2020.



ANNEMARIE CARNEY AXON
UNITED STATES DISTRICT JUDGE